

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5098 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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CHAMPABEN S RANA

Versus

INSPECTOR GENERAL OF POLICE

Appearance:

1. Special Civil Application No. 5098 of 1989
MR NK MAJMUDAR for Petitioner No. 1
MR LR PUJARI, AGP for Respondent No. 1
NOTICE SERVED for Respondent No. 2
MR BS SUPEHIA WITH MR VIJAY N RAVAL for Respondent No. 3
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CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 13/08/2002

ORAL JUDGEMENT

A very interesting and unique case has come to the surface, in this petition under Article 226 of the

Constitution, in which the question is, as to who is the real Champaben S. Rana, whether the petitioner or the respondent No.3, in so far as the employment of peon in the office of the Government in Photo Registry, at Ahmedabad, is concerned. Both the parties have claimed to be the real party enlisted and registered in the office of the Employment Exchange. Undoubtedly and admittedly, it is a disputed question of fact. Obviously, such a disputed question of fact cannot be gone into in a prerogative, discretionary, equitable, constitutional writ remedy under Article 226 of the Constitution of India, as per the settled proposition of law, since factual investigation is incumbent. Therefore, this Court is not inclined to entertain this petition. The petition, therefore, deserves to be dismissed on that ground.

Consequently, the petition shall stand dismissed. Rule discharged. Interim relief shall, obviously, stand vacated.

Before parting, learned advocate Mr.B.S.Supehia appearing for respondent No.3, states that the Department may be directed to give employment to respondent No.3 as she is the real incumbent for whom the order came to be issued earlier. It is for the respondent to decide the same and take appropriate action.

(J.N.Bhatt, J.)
(vjn)